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BUTTE COUNTY-CALIF.
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LOUISE KLEINER
COUNTY RECORDER

FILED
OCT 5 1973

CLARA A. NELSON, County Clerk
By M. LINDQUIST Deputy

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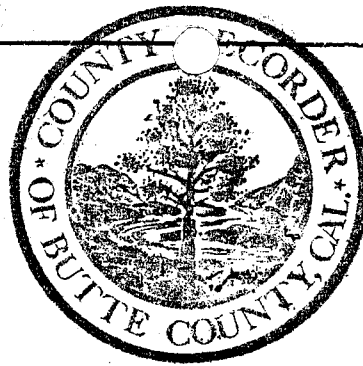
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE

10 PARROTT INVESTMENT COMPANY
11 and M. & T. INCORPORATED,
12 Plaintiffs,
13 v.
14 LUIGI CINQUINI, J. L. SWAIN,
15 VERN SWAIN, GEORGE PAVEIK,
16 HELEN PIERCE, WILBER S. GANOW,
17 and DOES I to X, inclusive,
18 Defendants.

No. 51081

JUDGMENT AND DECREE

18 Plaintiff PARROTT INVESTMENT COMPANY, a Corporation
19 duly organized and existing under the laws of the State of
20 California, and Plaintiff M. & T. INCORPORATED, a Corporation
21 duly organized under the laws of the State of Nevada and duly
22 authorized to do business in the State of California, have brought
23 the action herein seeking a declaration that Defendants, and each
24 of them, have no right to any of the waters flowing in and through
25 Edgar Slough or in the underflow thereof and asking that during
26 the pendency of the action Defendants, and each of them, be
27 restrained from diverting water in any quantity from Edgar Slough
28 which is situated in Butte County adjacent to or in the vicinity
29 of real property owned by Plaintiffs and that thereafter
30 Defendants be so restrained permanently. As a result thereof,



1 and following negotiations between Plaintiffs and Defendants, or
2 their successors in interest and each of them, certain written
3 stipulations and disclaimers have been entered into between
4 Plaintiff PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED
5 and the following Defendants:

6 (a) HARRY CINQUINI, the duly and regularly appointed
7 and acting Executor of the ESTATE OF LUIGI CINQUINI, deceased,
8 who has been substituted as a Defendant herein in the place and
9 stead of Defendant LUIGI CINQUINI;

10 (b) J. L. SWAIN and VERA SWAIN, sued herein as J. L.
11 SWAIN and VERN SWAIN;

12 (c) JAMES ESTES, sued herein as DOE I;

13 (d) GEORGE PAVCIK, sued herein as GEORGE PAVEIK;

14 (e) HELEN PIERCE; and,

15 (f) WILBER S. GANOW.

16 Reference is made to such STIPULATIONS AND DISCLAIMERS
17 as filed herein for further particulars.

18 Pursuant to such STIPULATIONS AND DISCLAIMERS, IT IS
19 HEREBY ORDERED, ADJUDGED AND DECREED as follows:

20 1. That as to Plaintiffs PARROTT INVESTMENT COMPANY
21 and M. & T. INCORPORATED, and Defendant HARRY CINQUINI as Execu-
22 tor of the ESTATE OF LUIGI CINQUINI, deceased ("CINQUINI"):

23 (a) CINQUINI may continue to divert water from
24 Edgar Slough, also known as Comanche Creek, at a point of
25 diversion located in the NW 1/4 of the SW 1/4 of Section 3, T21N,
26 R1E, MDB&M, for use in the irrigation of a parcel of land
27 comprising 50 acres located on the north bank of Edgar Slough,
28 more particularly described in Exhibit A.

29 (b) Plaintiffs PARROTT INVESTMENT COMPANY and
30 M. & T. INCORPORATED shall recognize the right of CINQUINI to



1 divert water from Edgar Slough for irrigation of such parcel of
2 land in an amount not to exceed 800 gallons per minute as a
3 maximum diversion of water to be made at any one time, or such
4 additional amount of water as may be reasonably required for
5 the sprinkler irrigation of 20 acres of orchard and the flood
6 irrigation of 30 acres of alfalfa within such parcel.

7 (c) CINQUINI shall not use water in excess of the
8 amounts set forth in Paragraph (b) above and shall not divert
9 water from Edgar Slough for other than irrigation use or for
10 use on any lands other than those described in Exhibit A, and
11 shall not use the water so diverted in a wasteful and unreason-
12 able manner.

13 (d) No attempt shall be made by Plaintiffs PARROTT
14 INVESTMENT COMPANY and M. & T. INCORPORATED or either of them,
15 to interfere, either physically or legally, with the diversion
16 of CINQUINI in the manner described in Paragraph (b) above, upon
17 the property described in Exhibit A.

18 (e) Plaintiffs PARROTT INVESTMENT COMPANY and
19 M. & T. INCORPORATED, or either of them, shall be privileged to
20 enter upon the property described in Exhibit A, after notice to
21 the occupant thereof, for the purpose of inspecting the diversion
22 and use of water thereon to assure compliance with this JUDGMENT
23 AND DECREE.

24 (f) CINQUINI shall have no right to divert water
25 from any tributary of Edgar Slough and any use not in conformity
26 therewith shall not be deemed to give any prescriptive claim of
27 right by such user other than as set forth herein.

28 2. That as to Plaintiffs PARROTT INVESTMENT COMPANY
29 and M. & T. INCORPORATED, and Defendants J. L. SWAIM and VERA
30 SWAIM ("SWAIM"):



1 (a) Defendants SWAIM shall henceforth divert water
 2 from Edgar Slough, also known as Comanche Creek, only at a point
 3 of diversion located approximately 82 feet North of the northerly
 4 bank of said Slough located approximately on the line between
 5 Lots 6 and 7 of Ranchos Robledos Subdivision as recorded in Book
 6 26 of Maps, at Pages 28, 29 and 30, Serial No. 13187, Official
 7 Records of Butte County, which point of diversion is also located
 8 near the Northeast corner of Section 1, T21N, R1E, MDB&M. This
 9 point of diversion is located in a drain which is tributary to
 10 Edgar Slough which drain has its source in, or drains through,
 11 the Fair Grounds located northerly therefrom. Such point of
 12 diversion shall be utilized only at the times and to the extent
 13 that water exists in the drain ditch arising from the drainage
 14 area located North of said point of diversion and at the time and
 15 to the extent water is flowing to said point of diversion in a
 16 southerly direction. Defendants SWAIM shall not divert from said
 17 drain ditch water which has its source in Edgar Slough and shall
 18 not divert water at the times and to the extent that water from
 19 Edgar Slough is flowing into said drain ditch and reaching the
 20 said point of diversion. The diversion herein described shall be
 21 used solely for irrigation purposes on the place of use compris-
 22 ing 5.20 acres as described below. Such diversion shall be for
 23 only as long as defendants SWAIM personally retain ownership in
 24 the aforesaid 5.20 acres. Any right to such diversion shall
 25 terminate when said ownership of Defendants SWAIM terminates.
 26 Said 5.20 acres is described as follows:

27 Lots Nos. 1, 2, 3, 4, 5, 6, 7 and 8 of Ranchos
 28 Robledos Subdivision recorded in Map Book 26
 29 at Pages 28, 29 and 30, Serial No. 13187,
 30 Official Records of Butte County, California,
 and being portions of Section 36, T22N, R1E,
 Section 31, T22N, R2E, Section 1, T21N, R1E,
 and Section 6, T21N, R2E, MDB&M.



(b) Defendants SWAIM shall henceforth cease utilizing and shall abandon and claim no further right to divert water from the point of diversion from Edgar Slough located on the northerly bank of Edgar Slough in Lot 2 of the aforementioned Ranchos Robledos Subdivision and any other point except as set forth in Paragraph (a) above.

(c) Plaintiffs PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED, or each of them, shall make no attempt to challenge or interfere, either physically or legally, with the diversion of Defendants SWAIM described in Paragraph (a) above, and Defendants SWAIM shall have no right to divert any water from Edgar Slough, or to divert water from any tributary thereto except as described in Paragraph (a) above.

3. That as to Plaintiffs PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED, and Defendant JAMES ESTES ("ESTES"):

(a) Defendant ESTES is the successor in interest to Harold D. Estes, identified as a party to that certain decree made and entered in the Superior Court of Butte County on November 6, 1942, in the matter of the determination of the rights of the various claimants to the waters of that portion of Butte Creek and its tributaries situated above the Western Dam near Nelson, in Butte County, California, being action number 18917, in said Court, which decree determined Harold D. Estes to be entitled to divert from Edgar Slough an amount of 1.33 cubic feet per second of water for use on 66.2 acres of land situated in Butte County and described in general as follows:

13.4 acres in Lot 10 of McIntosh Tract.
10.0 acres in Lot 13 of McIntosh Tract.
14.0 acres in Lot 14 of McIntosh Tract.
10.2 acres in Lot 15 of McIntosh Tract.
8.3 acres in Lot 16 of McIntosh Tract.
6.6 acres in Lot 19 of McIntosh Tract.
<u>3.2</u> acres in Lot 12 of McIntosh Tract.



1 66.2 acres TOTAL

2 (ALL in NE 1/4 of Section 2, T21N, R1E, MDB&M.)

3 The right of Harold D. Estes is subject to the priority and
4 limitations more particularly described in the said decree.

5 (b) Except for the foregoing rights to divert
6 water from Edgar Slough, Defendant ESTES has no other right to
7 so divert water from either the surface or the underflow of
8 Edgar Slough, and he shall make no such claim.

9 (c) The present use by Defendant ESTES of a
10 groundwater well located approximately 40 feet South of the
11 southerly bank of Edgar Slough in Stanley Park at a point within
12 the NE 1/4 of Section 2, T21N, R1E, MDB&M, such groundwater well
13 having a depth at present of approximately 267 feet with a
14 12 inch casing perforated with six (6) holes per foot from a
15 depth of approximately 35 feet to 106 feet, is not dependent
16 upon the underflow of Edgar Slough and does not result in a
17 diversion of such underflow, as to which underflow Defendant
18 ESTES shall claim no right of use except as provided under
19 Paragraph (a) above.

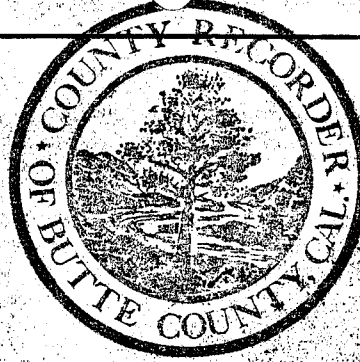
20 (d) Plaintiffs PARROTT INVESTMENT COMPANY and
21 M. & T. INCORPORATED, or either of them, shall make no attempt
22 either physically or by legal process to interfere with the
23 diversion of Defendant ESTES described in Paragraph (a) above,
24 and they, or either of them, shall make no attempt to interfere
25 with the diversion of Defendant ESTES from the groundwater well
26 described in Paragraph (c) above, unless and until it should
27 appear, as to such groundwater well, that the flow in Edgar
28 Slough, or the underflow thereof, which would otherwise reach
29 the lands of Plaintiffs PARROTT INVESTMENT COMPANY and M. & T.
30 INCORPORATED, is diminished as a result of such diversion, and



1 then only to the extent of such diminution.

2 4. That Defendants GEORGE PAVCIK, HELEN PIERCE and
3 WILBER S. GANOW have no right, title or interest in and to any
4 of the surface water or underflow of Edgar Slough as described
5 in the Complaint filed herein.

6 5. Plaintiffs PARROTT INVESTMENT COMPANY and M. & T.
7 INCORPORATED and each of them have equal and correlative rights
8 to the use of waters flowing in Edgar Slough as established and
9 described in that certain judgment and decree dated November 6,
10 1942 made and entered in the Superior Court of the State of
11 California, in and for the County of Butte in action number
12 18917 entitled, "In the Matter of the Determination of the Rights
13 of the Various Claimants to the Waters of that Portion of Butte
14 Creek and its Tributaries Situate Above the Western Dam Near
15 Nelson, in Butte County, California", and in the supplementary
16 decree in the same matter dated December 16, 1946. Plaintiff
17 PARROTT INVESTMENT COMPANY is also the holder of Licenses 2615,
18 2616 and 9268 issued by the State Water Resources Control Board
19 to divert water from Butte Creek into Edgar Slough and to redirect
20 such water for the use of said Plaintiff on the properties owned
21 by said Plaintiff situated at the westerly end of Edgar Slough.
22 Plaintiff M. & T. INCORPORATED is the holder of Licenses 2614,
23 2617 and 9267 issued by the State Water Resources Control Board
24 to divert water from Butte Creek into Edgar Slough and to redirect
25 such water from Edgar Slough for use on the lands of said Plain-
26 tiff adjacent to and in the vicinity of Edgar Slough. In addition
27 to the adjudicated rights and licenses above referred to, Plain-
28 tiffs PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED have
29 made certain other applications for diversions from Butte Creek,
30 as set forth in the records of the State Water Resources Control



1 Board. Except for nominal amounts of surface water inflow during
 2 the rainy season, all water in Edgar Slough originates in Butte
 3 Creek. Such water is diverted from Butte Creek into Edgar Slough
 4 by Plaintiffs PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED
 5 and also by Dayton Mutual Water Company for the use of Plaintiffs
 6 PARROTT INVESTMENT COMPANY and M. & T. INCORPORATED, and Dayton
 7 Mutual Water Company for irrigation purposes in accordance with
 8 their respective rights. Water is rediverted from Edgar Slough
 9 for use on the properties of Plaintiffs PARROTT INVESTMENT COMPANY
 10 and M. & T. INCORPORATED and upon properties served by Dayton
 11 Mutual Water Company. Plaintiffs PARROTT INVESTMENT COMPANY and
 12 M. & T. INCORPORATED, and each of them, do now and have at all
 13 times mentioned in the Complaint herein made beneficial use of
 14 such water for irrigation and stock water and have perfected their
 15 rights to the waters diverted from Butte Creek into Edgar Slough
 16 and have diligently and promptly filed all necessary and requested
 17 reports regarding such use of water with the State Water Resources
 18 Control Board and its predecessors.

19 6. Except as above set forth, Plaintiffs PARROTT
 20 INVESTMENT COMPANY and M. & T. INCORPORATED have the right to the
 21 use of the full and entire flow of Edgar Slough and the underflow
 22 thereof, as against any claim on the part of the Defendants above
 23 named or their successors, undiminished by the uses of the Defen-
 24 dants above named or their successors, except in accordance with
 25 this JUDGMENT AND DECREE.

26 7. This JUDGMENT AND DECREE shall be deemed binding and
 27 accrue to the benefit of the interests of the parties hereto as
 28 follows:

29 (a) Plaintiffs PARROTT INVESTMENT COMPANY and M. & T.
 30 INCORPORATED and their successors and assigns to the ownership of

1 and the right to the use of the water flow in Edgar Slough and
2 the underflow thereof as described herein;

3 (b) Defendant CINQUINI as Executor of the ESTATE
4 OF LUIGI CINQUINI and the successors and assigns to the ownership
5 of the land described in Exhibit A and the pumping facility now
6 located thereon;

7 (c) Defendants SWAIM only so long as they personally
8 retain ownership to that certain 5.20 acres of real property de-
9 scribed herein as Paragraph 2(a);

10 (d) Defendant ESTES and the successors and assigns
11 to the ownership of that certain 66.2 acres described in Para-
12 graph 3(a) and that certain groundwater well now located thereon
13 and described herein at Paragraph 3(c); and

14 (e) Defendants GEORGE PAVCIK, HELEN PIERCE, WILBER
15 S. GANOW and their successors and assigns.

16 Dated: Oct 4, 1973.

17
18 LUCIAN B. VANDEGRIFT
19 JUDGE OF THE SUPERIOR COURT

20 THE FOREGOING INSTRUMENT IS A CORRECT COPY OF
21 THE ORIGINAL ON FILE AND OF RECORD IN THIS OFFICE.

22 ATTEST: Oct 9 1973
23 CLARK A. NELSON
24 COUNTY CLERK AND CLERK OF THE SUPERIOR
25 COURT IN AND FOR THE COUNTY OF BUTTE,
26 STATE OF CALIFORNIA.

27 [Signature] DEPUTY



EXHIBIT A

All that real property situate in the County of Butte, State of California, described as follows:

Being a tract of land consisting of 50 acres, more or less, situate in Section 3, T21N, R1E, bounded as follows:

Beginning at a point in the center of Edgar Slough from which an oak tree five feet in diameter bears S. 29-3/4° W., 4.72 chains distant; thence N. 18° 04' E., 41.09 chains; thence S. 83° 06' W., 1.51 chains; thence N. 50° 15' W., 1.29 chains; thence S. 57° 40' W., 2.70 chains; thence S. 1° 20' W., 1.89 chains; thence S. 67° 40' W., 3.24 chains; thence S. 11° 20' W. 2.12 chains; thence S. 34° 53' W., 3.70 chains; thence S. 83° 20' W., 3.41 chains; thence S. 53° W., 0.90 chains to a stake from which an oak tree 2 1/2 feet in diameter bears S. 44° W., 5.74 chains distant; thence S. 18° 04' W. 28.20 chains to a stake from which an oak tree 4 feet in diameter bears N. 13° 40' E. 2.13 chains; thence N. 78° 55' E. 3.60 chains; thence S. 67° 15' E. 7.62 chains to point of beginning and containing 37 acres, more or less; and also the fractional part of the Farwell Rancho situate near the Eastern line of Section 4, T21N, R1E, commencing in the center of Little Chico Creek at the Northwest corner of land owned by Manuel Silva; thence S. 17° 50' West (Var. 17° E.) 50/100 chains to a redwood post from which an oak tree 20 inches in diameter bears S. 44° 40' W. 5.77 chains distant; thence on same course at 27.15 chains to a stake near Edgar Slough and at 27.60 chains center of said Slough; thence S. 75° 15' W. 5.40 chains to Southwest corner of tract; thence N. 17° 50' E. 50/100 chains to a post from which a double oak 13 inches in diameter bears North 64° 30' E. 13 1/2 links distant; thence by same course at 29.50 chains to a post and at 30 chains center of Little Chico Creek; thence up center of said creek S. 84° 15' East 4.67 chains to the place of beginning, containing 13 acres, more or less.

RECORDED'S MEMO. Legality of writing, filing or printing UNLAWFUL UNDER this document when recorded.



DOWNNEY, BRAND,
SEYMOUR & RONNICK
SACRAMENTO, CALIF.

DATE OCT 04 1998

This is to certify that if bearing the purple seal of this office, this is a true copy of the document filed with the Butte County Recorder's Office.

Gandace J. Gruber

Butte County Clerk-Recorder

By *[Signature]*

Deputy

BOOK 1867

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